

REMARKS/ARGUMENTS

Discussion of Claim Amendments

Claim 8 has been amended to replace “comprising” with --consisting of--. Claim 8 also has been amended to delete “indicator colourants.” No new matter has been added.

The proposed claim amendments place the application in condition for allowance or in better condition for consideration on appeal. Accordingly, the Examiner is requested to enter the amendments even though the application is under final rejection.

The Examiner Interview

Applicants wish to thank Examiner Sheeba Ahmed for the courtesies extended to Xavier Pillai, one of Applicants’ attorneys, during the telephone interview held on March 25, 2009. During the interview the outstanding rejections were discussed. No agreement was reached.

The Office Action

The Office Action sets forth the following grounds for rejection:

- (1) Claims 8-10, 12-15, 17-21, 23-28, 30, and 31 are rejected under 35 USC §102(e), as allegedly anticipated by Lucht et al. (US 6,706,218); and
- (2) claims 8-15, 17-21, and 23-31 are rejected under 35 USC §102(b), as allegedly anticipated by Nakasugi et al. (US 4,028,118).

Discussion of Rejections

To anticipate a claim, a single source of prior art must contain all of the elements of that claim. See *Hybritech Inc. v. Monoclonal Antibodies Inc.*, 802 F.2d 1367, 1379, 231 USPQ 81, 90 (Fed. Cir. 1986); *Atlas Powder Co. v. E.I. du Pont De Nemours & Co.*, 750 F.2d 1569, 1574, 224 USPQ 409, 411 (Fed. Cir. 1984); *In re Marshall*, 578 F.2d 301, 304, 198 USPQ 344, 346 (CCPA 1978)... Moreover, the single source must disclose all of the claimed elements “arranged as in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d

1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); *Connell v. Sears Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983).

The Office Action states at page 7, point 4, that polythiophene meets the limitations of an indicator colourant. Applicants have deleted indicator colourants from claim 8. Accordingly, the anticipation rejection over Lucht et al. should be withdrawn.

In regards to Nakasuji et al., this reference teaches the need for four components: A, B, C, and D (see Abstract) to produce the thermochromic material. However, the presently claimed invention requires only three components: thermochromic polymer, colourant, and further additives selected from the group consisting of a melting agent and a developer added to the polymer at the beginning of the extrusion process. Claim 8 has been amended to replace "comprising" with --consisting of--. Therefore, the presently claimed invention does not require the presence of component D, a compound selected from the group consisting of higher aliphatic monovalent acid alcohol esters. The remaining rejected claims are dependent upon claim 8, directly or ultimately. In view of the foregoing, the anticipation rejection over Nakasuji et al. also should be withdrawn.

Conclusion

The application is in good and proper form for allowance. A favorable decision is solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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Date: April 3, 2009